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100th Congress
2d Session

HOUSE OF REPRESENTATIVES

Rept. 100-816
Part 3

UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLMENTATION ACT OF 1988

August 4, 1988.—Ordered to be printed

Mr. Fascell, from the Committee on Foreign Affairs, submitted the following

REPORT

[To accompany H.R. 5090 which on July 26, 1988, was referred jointly to the Committee on Ways and Means, the Committee on Agriculture, the Committee on Banking, Finance and Urban Affairs, the Committee on Energy and Commerce, the Committee on Foreign Affairs, the Committee on Government Operations, the Committee on Interior and Insular Affairs, and the Committee on the Judiciary]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 5090) to implement the United States-Canada Free-Trade Agreement, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Committee Action

On January 2, 1988, the President entered into the United States-Canada Free Trade Agreement (the "Agreement") pursuant to the authority provided under the Trade Act of 1974, as amended. The President subsequently transmitted to Congress copies of the final legal text of the Agreement and drafts of an implementing bill and statement of administrative action.

Hearings were held by the Subcommittee on International Economic Policy and Trade on February 25, 1988 and by the full committee on March 16, 1988 at which testimony was received from executive branch witnesses representing the Office of the U.S. Trade Representative and the Departments of State, Treasury, Commerce, Agriculture, and Energy. In the months following these hearings, informal consultations took place between the executive branch and the committee with respect to those provisions of the implementing bill and statement of administrative action within the jurisdiction of the committee.

On July 25, 1988, the President submitted the implementing legislation to the Congress. On the following day, H.R. 5090 was intro-

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duced, by request, by Mr. Foley and Mr. Michel and referred to the Committee on Foreign Affairs and seven other committees of the House. On August 3, 1988, the Committee on Foreign Affairs met to consider H.R. 5090 and ordered the bill favorably reported without amendment by voice vote, a quorum being present.

Purpose

H.R. 5090 would approve the Agreement and make such changes in existing law as are necessary to implement the Agreement. Provided the necessary legal procedures are completed in the United States and Canada prior to January 1, 1989, the Agreement and necessary implementing legislation will enter into force on such date. The objectives of the Agreement are to establish a free-trade area between the United States and Canada by eliminating existing barriers to trade in goods and services between the two countries and by liberalizing conditions for investment.

Section 305(a) of the bill, over which the committee has specific jurisdiction, would implement paragraph 3 of annex 902.5 to the Agreement by amending section 7(d) of the Export Administration Act of 1979, as amended, by modifying the prohibition on the export of Alaskan crude oil to permit the export to Canada of up to a maximum annual average of 50,000 barrels per day, subject to the condition that the oil be transported on U.S. bottoms.

Background

Canada has long been the United States' largest trading partner. One-fourth of all U.S. exports go to Canada, and trade-in goods and services between the two countries amounted to approximately $166 billion in 1986. The United States and Canada have enjoyed particularly close and friendly relations. Various attempts have been made over the past century to conclude a mutually beneficial free trade agreement but they have always faltered. This Agreement represents an historic milestone in United States-Canadian relations.

The Agreement will lead to the elimination of all tariffs on bilateral trade between the United States and Canada over a 10-year period, significantly liberalize opportunity for investment and for service industries in the two countries, assure continued access to Canadian energy supplies, and establish a binational dispute resolution panel. The committee believes that the Agreement will enhance economic efficiency, security, predictability, and growth, establish more effective procedures for the resolution of disputes, strengthen the bonds of friendship between the United States and Canada, and lay the foundation for future bilateral and multilateral cooperation. It is on this basis that the committee favorably reports and endorses H.R. 5090, believing that the benefits of the Agreement in its totality outweigh its shortcomings.

Export of Oil From Alaska

In paragraph 3 to annex 902.5 of the Agreement, the United States committed to "exempt Canada from the prohibition on the exportation of Alaskan oil under section 7(d) of the Export Admin-

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istration Act of 1979, as amended, up to a maximum of 50,000 barrels per day on an annual average basis, subject to the condition that such oil be transported to Canada from suitable location within the lower 48 states." After consultation with the committee, section 305(a) of H.R. 5090 has been recommended by the executive branch in implementation of this provision.

The legislative language of section 305(a) does not conform precisely to the applicable provision in the Agreement. The intent of paragraph 3 to annex 902.5 of the Agreement is that any oil shipped from Alaska to Canada be transported on U.S. ships. However, because of executive branch concerns regarding the constitutionality of the language in the Agreement that "such oil be transported to Canada from a suitable location within the lower 48 states", the substitute language in the bill requires "any ocean transportation of such oil shall be by vessels documented for coastwise trade under 46 U.S.C. 12106", i.e., American flag vessels. The executive branch has assured the committee that the proposed implementing language: (1) is consistent with the intent of the Agreement; (2) is acceptable to Canada; (3) will have the same practical effect as the provision in the Agreement because of the absence of the necessary port facilities in Canada; and (4) fulfills the commitment to implement paragraph 3 of annex 902.5.

To avoid interpretive problems with respect to the Agreement, the proposed implementing legislation and the statement of administrative action, the committee believes it would be useful to detail its understanding of the applicable provisions. Both the text of the Agreement and the implementing legislation contemplate waterborne movement of the oil, ruling out direct exports of this oil by pipeline from Alaska to Canada. Second, the reference to 46 U.S.C. 12106 is intended to ensure that only vessels documented for the United States coastwise trade and licensed under said section 12106 may carry the oil between Valdez, Alaska, and any location in the lower 48 states or in Canada. Under the statement of administrative action, the Department of Commerce, in consultation with the Maritime Administration, has only the narrow, limited authority to determine whether short-haul barge movements between locations in the lower 48 states and Canada constitute "ocean" transportation, and, thus, the Department has no authority to seek to exempt from the U.S. flag requirement direct barge movements between Valdez, Alaska, and Vancouver, British Columbia.

Required Reports Section

COST ESTIMATE

The committee notes that section 305(a) of H.R. 5090, which was considered by the committee pursuant to its jurisdiction, does not authorize the appropriation of any funds. The committee agrees with the overall estimate of the Congressional Budget Office.

INFLATIONARY IMPACT STATEMENT

The committee believes that H.R. 5090 will have no inflationary impact.

STATEMENTS REQUIRED BY CLAUSE 2 (l) OF HOUSE RULE XI

(a) Oversight findings and recommendations

Among the principal oversight activities which contributed to the committee's formulation of H.R. 5090 were:

Hearings and review of the Free Trade Agreement, as well as the implementing legislation, by the full committee and the Subcommittee on International Economic Policy and Trade;

Ongoing consultations between committee members and staff and executive branch officials; and

Annual discussions with Canadian legislators during the United States-Canada Interparliamentary Exchange.

As a result of these oversight activities, the committee recommends that the House approve H.R. 5090.

(b) Budget, credit, and spending authority

The enactment of H.R. 5090 will create no new budget, credit, or spending authority.

(c) Committee on Government Operations summary

No oversight findings and recommendations which relate to this legislation have been received from the Committee on Government Operations under clause 4(c)(2) of House Rule X.

(d) Congressional Budget Office cost estimate

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 3, 1988.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 5090, the United States-Canada Free-Trade Agreement Implementation Act of 1988. The attached table represents the estimated budget impact of the bill, as ordered reported by the House Committee on Foreign Affairs, August 3, 1988.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Douglas Criscitello, who can be reached at 226–2850.

Sincerely,

JAMES L. BLUM,
Acting Director.

ESTIMATED COSTS TO THE FEDERAL GOVERNMENT TO IMPLEMENT THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

[H.R. 5090 as ordered reported by the House Committee on Foreign Affairs, Aug. 3, 1988; by fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
NET REVENUE EFFECTS					
Estimated Revenues	−97	−198	−303	−421	−546
DIRECT SPENDING					
Commodity Credit Corporation					
Estimated Budget Authority	2	2	3	4	4
Estimated Outlays	2	2	3	4	4
Customs User Fees:					
Estimated Budget Authority		22	1		
Estimated Outlays		22	1		
Total Direct Spending:					
Estimated Budget Authority	2	24	4	4	4
Estimated Outlays	2	24	4	4	4
AUTHORIZATIONS					
U.S. Secretariat:					
Estimated Authorization Level	1	1	1	1	1
Estimated Outlays	1	1	1	1	1
Binational Panels and Committees:					
Estimated Authorization Level [1]	2				
Estimated Outlays	2				
Other Costs:					
Estimated Authorization Level	1	1	1	1	1
Estimated Outlays	1	1	1	1	1
Total Authorizations:					
Estimated Authorization Level	4	2	2	2	2
Estimated Outlays	4	2	2	2	2
Net increase in the deficit	103	224	309	427	552

[1] Costs of about $2 million a year for binational panels and committees would be expected to continue in years after 1989, but the bill only authorizes appropriations for fiscal year 1989.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown in part 1 of the report, filed by the Committee on Ways and Means.

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